

Serial Number 09/931,237

### REMARKS

Reconsideration of the application is respectfully requested for the following reasons:

1. Formalities

The drawings have been amended to clarify that the checking step in Fig. 2 refers to the predefined percentage of overlapping area, as required in part 1 of item (a) on page 2 of the Official Action, and by correcting the typographic errors noted in parts (b) and (c) of item 1 on page 2.

The title has been amended to correct the spelling of "tracking," as required in item 2 on page 3 of the Official Action.

The specification and claims have been amended by changing "protrusion shape" to ~~raised shape~~, in order to overcome the objection set forth in item 3 on page 3 of the Official Action.

Claims 1, 10, 14, 16, and 17 have been amended to correct the spelling of "tracking;" claim 16 has been amended by changing "different person" to ~~different people~~; claims 9, 14, and 23 have been amended by changing "existed" to ~~existing~~; and claim 13 has been amended by changing "fault" to ~~false~~, all as suggested in items 4-7 on page 4 of the Official Action.

Because all of the above changes are formal in nature, it is respectfully submitted that they do not involve "new matter."

3. Rejections of Claims 1-6, 8-20, 22, and 23 Under 35 USC §112, 2nd Paragraph

This rejection has been addressed by:

- a. amending claim 1 to clarify that the phrase "it is determined that the old face is still in the current frame and its position is in the center of the skin region" refers

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to the feature in which the old face is still in the current frame and its position is set to the center of the skin region when there exists more than a predefined percentage of overlapping area (which is the interpretation correctly adopted by the Examiner)—it is noted that while the word “locates” is used instead of “set,” the use of the active form of the verb “locates” is consistent with the Examiner’s interpretation of the phrase and with the specification, as set forth in item 10 on page 5 of the Official Action;

- b. amending claim 5 to clarify that the adjuster updates the skin color model based on updates to the face recorder, in response to the grounds for rejection set forth in item 11 on page 5 of the Official Action;
- c. including in amended claims 1, 10, and 17 definitions of  $e()$  and  $p()$ , and  $i, j$ , and  $w$ , as required in item 13 on page 6 of the Official Action (since  $d(x)$  is already defined as equaling the position difference  $V(x-1)-V(x+1)$ , it is believed that no further definition of  $d$  is necessary);
- d. amending the recitations of “true new faces” to refer to “newly occurring faces” as suggested in item 14 on page 6 of the Official Action; and
- e. amending claim 10 to include the limitations of original claims 11 and 13 to clarify that “the faces” are tracked (old) faces, as suggested in item 15 on page 6 of the Official Action.

Finally, with respect to item 12 on page 5 of the Official Action, it is noted that the phrase “so as to separate connected face regions” has not been amended (although it has been moved from claim 6 to independent claim 1). It is respectfully submitted that, given the amendment of each of the independent claims to recite geometric constraints on the face-like regions, whether this phrase is interpreted as “functional” in nature is immaterial to patentability. Even if the limitation is functional, a claim is not rendered indefinite simply by the presence of a functional limitation, so long as the claim includes sufficient structural limitations in addition to the functional limitation.

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Having thus addressed each of the grounds for rejection under 35 USC §112, 2<sup>nd</sup> Paragraph, withdrawal of the rejection is respectfully requested.

3. Rejections of Claims 1-6, 8-20, 22, and 23 Under 35 USC §103(a)


The various rejections of claims 1-6, 8-20, 22, and 23 have been rendered moot by the amendment of independent claims 1, 10, and 17 to include the limitations of original claims 7 and 21, indicated as allowable in item 52 on page 25 of the Official Action.

It is noted that the combination of original claims 10 and 7 is presented for the first time in this response. Nevertheless, it is respectfully submitted that amended independent claim 10 is allowable for the same reason as amended independent claims 1 and 17, namely for the reason that none of the references of record discloses or suggests the claimed geometric constraints on detected face-like regions (as discussed in item 54 of the Official Action).

Having thus overcome each of the rejections made in the Official Action, withdrawal of the rejections and expedited passage of the application to issue is requested.

Respectfully submitted,

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